

MDR Tracking Number: M5-04-4024-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on July 23, 2004.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with § 133.308(r)(9), the Commission hereby Orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the Order, the Commission will add 20-days to the date the Order was deemed received as outlined on page one of this Order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. The office visits, joint mobilization, myofascial release mechanical traction, diathermy, unlisted modality, massage therapy, therapeutic exercises group therapy, chiropractic manipulative treatment, misc. supplies and materials rendered on 7/24/03 through 3/31/04 were found to be medically necessary. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On August 31, 2004, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	MAR	Paid	EOB Denial Code	Rationale
3/4/04	95851 x 4	\$30.60 x 4 = \$122.40	\$18.52 x 125% = \$23.15 x 4 = (MAR) \$92.60	\$0.00	F, 435	Review of the carrier's EOB dated 3/24/04, revealed the carrier denied CPT code 95851 as "F, 435-The value of this procedure is included in the value of the comprehensive procedure." According to the TWCC Rule 133.304 (c) "...The explanation of benefits shall include the correct payment exception codes

						required by the Commission's instructions, and shall provide sufficient explanation to allow the sender to understand the reason(s) for the insurance carrier's action(s). A generic statement that simply states a conclusion such as "not sufficiently documented" or other similar phrases with no further description of the reason for the reduction or denial of payment does not satisfy the requirements of this section." Therefore the requestor is entitled to reimbursement is recommended in the amount of \$92.60.
3/4/04	97750-MT x 2 units	\$66.80	\$27.44 x 125% = \$34.30 x 2 = (MAR) \$61.74	\$0.00	Y, 973	Review of the carrier's EOB dated 3/24/04 revealed the carrier denied CPT code 97750-MT as "Y, 973-Payment denied as the modifier is incorrect or no longer valid." According to the TWCC Rule 134.202 (e)(9) "Commission Modifiers. HCPs billing professional medical services shall utilize the following modifiers, in addition to the modifiers prescribed by the Medicare policies required to be used in subsection (b) of this section, for correct coding, reporting, billing, and reimbursement of the procedure codes." Reimbursement is not recommended.
3/11/04	97750-MT x 6 units	\$200.40	\$27.44 x 125% = \$34.30 x 6 = (MAR) \$185.22	\$0.00	Y, 973	
The requestor is entitled to reimbursement in the amount of \$92.60.						

ORDER

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20-days of receipt of this Order. This Order is applicable to dates of service rendered on 7/24/03 through 3/4/04 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 8th day of October 2004.

Margaret Q. Ojeda
Medical Dispute Resolution Officer
Medical Review Division
MQO/mqo

MEDICAL REVIEW OF TEXAS

[IRO #5259]

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NOTICE OF INDEPENDENT REVIEW DETERMINATION

TWCC Case Number:	
MDR Tracking Number:	M5-04-4024-01
Name of Patient:	
Name of URA/Payer:	
Name of Provider: (ER, Hospital, or Other Facility)	
Name of Physician: (Treating or Requesting)	

September 10, 2004

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by Texas Medical Foundation, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

Medical Review of Texas (MRT) hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to MRT.

Sincerely,

CLINICAL HISTORY

Available documentation received and included for review consists of an approximately 2 inch thick stack of records from multiple providers dating back to October 2001. Office visit notes from Dr. W for the dates in dispute are also reviewed.

___ was injured while working for Wal-Mart on ___ by a bicycle falling off a shelf behind her, striking her across her back and right hip. The bicycle also knocked some boxes off the shelf and these struck her across the shoulders and head. She had acute onset of pain in the neck, back, right shoulder, right hip and right leg, was initially treated in an emergency room and then sought care with Dr. B, DC. Subsequently she saw a neurologist and had electrodiagnostic studies (negative), determining that she had musculoskeletal neck and low back pain with a right shoulder rotator cuff injury. She then saw an orthopedist, Dr. R, who ordered a MRI and determined L5/S1 radiculopathy and shoulder impingement. She then had subacromial space steroid injections, along with ESI to the neck. She subsequently underwent arthroscopic rotator cuff repair in March of 2002. She had a discogram in June 2002 which revealed a L4/L5 annular tear with posterior herniated disk impingement onto the L5 nerve root and the grade 1 spondylolisthesis, with L5/S1 diffusely torn annulus posteriorly with a 5 mm disk herniation extruding into the neuroforamina more the left as well as a grade 1 spondylolisthesis at this level also. She was then referred for pain management in September 2002, and underwent lumbar facet joint injections. MMI was determined per designated doctor on 4/24/03 with a 29% whole person impairment, comprised of 7% whole person for the right shoulder, 8% whole person for cervical spine, and 10% whole person for the lumbar spine.

The patient had some follow-up office visits/treatment between 7/04/03 and 3/31/04 and these have been disputed for medical necessity purposes.

REQUESTED SERVICE(S)

Medical necessity of office visits 99211, 99212 and 99213, joint mobilization, myofascial release, mechanical traction, diathermy, unlisted modality-97139, massage therapy, therapeutic exercises, group therapy, chiropractic manipulative treatment 98940 and 98943, misc. supplies/materials-99070. 7/24/03-3/31/04.

The Commission's notification of IRO assignment, dated 8/13/04, indicates that DOS 03/04-11/04 are fee disputes and not medical necessity issues.

DECISION

Approved.

RATIONALE/BASIS FOR DECISION

The standard of medical necessity in Workers Comp, according to the Texas labor code 408.021 (entitlement to medical benefits) is that an employee who sustained a compensable injury is entitled to all healthcare reasonably required by the nature of the injury as and when needed. The employee is specifically entitled to healthcare that: (1) cures or relieves the effects naturally resulting from the compensable injury; (2) promotes recovery; or (3) enhances the ability of the employee to return to or retain employment.

This patient has a long and complex history with a number of ongoing symptomatic complaints. It appears she suffered flare-ups or exacerbations of her problems on the dates at issue. These deviations from baseline were documented in the patient's record, assessment of the worsening of the patient's condition was also made and appropriate treatment interventions were implemented, with positive effects. As such, the care rendered satisfied the above standard of medical necessity.

The above analysis is based solely upon the medical records/tests submitted. It is assumed that the material provided is correct and complete in nature. If more information becomes available at a later date, an additional report may be requested. Such and may or may not change the opinions rendered in this evaluation.

Opinions are based upon a reasonable degree of medical/chiropractic probability and are totally independent of the requesting client.

References:

Hansen DT: Topics in Clinical Chiropractic, 1994, volume one, No. 4, December 1994, pp. 1-8 with the article "Back to Basics: Determining how much care to give and reporting patient progress".

Haldeman S., Chapman-Smith D, Peterson DM., eds. Guidelines for Chiropractic Quality Assurance and Practice Parameters, Aspen: Giathersburg, MD, 1993;

Souza T: Differential Diagnosis for a Chiropractor: Protocols and

Algorithms, 1997; chapter 1, pp. 3-25.

Liebenson C. Commentary: Rehabilitation and chiropractic practice.
JMPT 1996; 19(2):134140